



Rep. Elaine Nekritz

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LRB099 02786 RLC 34516 a

1 AMENDMENT TO HOUSE BILL 172

2 AMENDMENT NO. _____. Amend House Bill 172 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 5-130, 5-407, 5-805, 5-810, and 5-821 and by
6 adding Section 5-822 as follows:

7 (705 ILCS 405/5-130)

8 Sec. 5-130. Excluded jurisdiction.

9 (1)(a) The definition of delinquent minor under Section
10 5-120 of this Article shall not apply to any minor who at the
11 time of an offense was at least 16 ~~15~~ years of age and who is
12 charged with: (i) first degree murder, (ii) aggravated criminal
13 sexual assault, or (iii) aggravated battery with a firearm as
14 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
15 (e)(3), or (e)(4) of Section 12-3.05 where the minor personally
16 discharged a firearm as defined in Section 2-15.5 of the

1 Criminal Code of 1961 or the Criminal Code of 2012, ~~(iv) armed~~
2 ~~robbery when the armed robbery was committed with a firearm, or~~
3 ~~(v) aggravated vehicular hijacking when the hijacking was~~
4 ~~committed with a firearm.~~

5 These charges and all other charges arising out of the same
6 incident shall be prosecuted under the criminal laws of this
7 State.

8 (b) (i) If before trial or plea an information or indictment
9 is filed that does not charge an offense specified in paragraph
10 (a) of this subsection (1) the State's Attorney may proceed on
11 any lesser charge or charges, but only in Juvenile Court under
12 the provisions of this Article. The State's Attorney may
13 proceed on a lesser charge if before trial the minor defendant
14 knowingly and with advice of counsel waives, in writing, his or
15 her right to have the matter proceed in Juvenile Court.

16 (ii) If before trial or plea an information or indictment
17 is filed that includes one or more charges specified in
18 paragraph (a) of this subsection (1) and additional charges
19 that are not specified in that paragraph, all of the charges
20 arising out of the same incident shall be prosecuted under the
21 Criminal Code of 1961 or the Criminal Code of 2012.

22 (c) (i) If after trial or plea the minor is convicted of any
23 offense covered by paragraph (a) of this subsection (1), then,
24 in sentencing the minor, the court shall sentence the minor
25 under Section 5-4.5-105 of the Unified Code of Corrections ~~have~~
26 ~~available any or all dispositions prescribed for that offense~~

1 ~~under Chapter V of the Unified Code of Corrections.~~

2 (ii) If after trial or plea the court finds that the minor
3 committed an offense not covered by paragraph (a) of this
4 subsection (1), that finding shall not invalidate the verdict
5 or the prosecution of the minor under the criminal laws of the
6 State; however, unless the State requests a hearing for the
7 purpose of sentencing the minor under Chapter V of the Unified
8 Code of Corrections, the Court must proceed under Sections
9 5-705 and 5-710 of this Article. To request a hearing, the
10 State must file a written motion within 10 days following the
11 entry of a finding or the return of a verdict. Reasonable
12 notice of the motion shall be given to the minor or his or her
13 counsel. If the motion is made by the State, the court shall
14 conduct a hearing to determine if the minor should be sentenced
15 under Chapter V of the Unified Code of Corrections. In making
16 its determination, the court shall consider among other
17 matters: (a) whether there is evidence that the offense was
18 committed in an aggressive and premeditated manner; (b) the age
19 of the minor; (c) the previous history of the minor; (d)
20 whether there are facilities particularly available to the
21 Juvenile Court or the Department of Juvenile Justice for the
22 treatment and rehabilitation of the minor; (e) whether the
23 security of the public requires sentencing under Chapter V of
24 the Unified Code of Corrections; and (f) whether the minor
25 possessed a deadly weapon when committing the offense. The
26 rules of evidence shall be the same as if at trial. If after

1 the hearing the court finds that the minor should be sentenced
2 under Chapter V of the Unified Code of Corrections, then the
3 court shall sentence the minor under Section 5-4.5-105 of the
4 Unified Code of Corrections ~~accordingly having available to it~~
5 ~~any or all dispositions so prescribed.~~

6 (2) (Blank).

7 (3) (Blank). ~~(a) The definition of delinquent minor under~~
8 ~~Section 5-120 of this Article shall not apply to any minor who~~
9 ~~at the time of the offense was at least 15 years of age and who~~
10 ~~is charged with a violation of the provisions of paragraph (1),~~
11 ~~(3), (4), or (10) of subsection (a) of Section 24-1 of the~~
12 ~~Criminal Code of 1961 or the Criminal Code of 2012 while in~~
13 ~~school, regardless of the time of day or the time of year, or~~
14 ~~on the real property comprising any school, regardless of the~~
15 ~~time of day or the time of year. School is defined, for~~
16 ~~purposes of this Section as any public or private elementary or~~
17 ~~secondary school, community college, college, or university.~~
18 ~~These charges and all other charges arising out of the same~~
19 ~~incident shall be prosecuted under the criminal laws of this~~
20 ~~State.~~

21 ~~(b)(i) If before trial or plea an information or indictment~~
22 ~~is filed that does not charge an offense specified in paragraph~~
23 ~~(a) of this subsection (3) the State's Attorney may proceed on~~
24 ~~any lesser charge or charges, but only in Juvenile Court under~~
25 ~~the provisions of this Article. The State's Attorney may~~
26 ~~proceed under the criminal laws of this State on a lesser~~

1 ~~charge if before trial the minor defendant knowingly and with~~
2 ~~advice of counsel waives, in writing, his or her right to have~~
3 ~~the matter proceed in Juvenile Court.~~

4 ~~(ii) If before trial or plea an information or indictment~~
5 ~~is filed that includes one or more charges specified in~~
6 ~~paragraph (a) of this subsection (3) and additional charges~~
7 ~~that are not specified in that paragraph, all of the charges~~
8 ~~arising out of the same incident shall be prosecuted under the~~
9 ~~criminal laws of this State.~~

10 ~~(c)(i) If after trial or plea the minor is convicted of any~~
11 ~~offense covered by paragraph (a) of this subsection (3), then,~~
12 ~~in sentencing the minor, the court shall have available any or~~
13 ~~all dispositions prescribed for that offense under Chapter V of~~
14 ~~the Unified Code of Corrections.~~

15 ~~(ii) If after trial or plea the court finds that the minor~~
16 ~~committed an offense not covered by paragraph (a) of this~~
17 ~~subsection (3), that finding shall not invalidate the verdict~~
18 ~~or the prosecution of the minor under the criminal laws of the~~
19 ~~State; however, unless the State requests a hearing for the~~
20 ~~purpose of sentencing the minor under Chapter V of the Unified~~
21 ~~Code of Corrections, the Court must proceed under Sections~~
22 ~~5-705 and 5-710 of this Article. To request a hearing, the~~
23 ~~State must file a written motion within 10 days following the~~
24 ~~entry of a finding or the return of a verdict. Reasonable~~
25 ~~notice of the motion shall be given to the minor or his or her~~
26 ~~counsel. If the motion is made by the State, the court shall~~

1 ~~conduct a hearing to determine if the minor should be sentenced~~
2 ~~under Chapter V of the Unified Code of Corrections. In making~~
3 ~~its determination, the court shall consider among other~~
4 ~~matters: (a) whether there is evidence that the offense was~~
5 ~~committed in an aggressive and premeditated manner; (b) the age~~
6 ~~of the minor; (c) the previous history of the minor; (d)~~
7 ~~whether there are facilities particularly available to the~~
8 ~~Juvenile Court or the Department of Juvenile Justice for the~~
9 ~~treatment and rehabilitation of the minor; (e) whether the~~
10 ~~security of the public requires sentencing under Chapter V of~~
11 ~~the Unified Code of Corrections; and (f) whether the minor~~
12 ~~possessed a deadly weapon when committing the offense. The~~
13 ~~rules of evidence shall be the same as if at trial. If after~~
14 ~~the hearing the court finds that the minor should be sentenced~~
15 ~~under Chapter V of the Unified Code of Corrections, then the~~
16 ~~court shall sentence the minor accordingly having available to~~
17 ~~it any or all dispositions so prescribed.~~

18 (4) (Blank). ~~(a) The definition of delinquent minor under~~
19 ~~Section 5-120 of this Article shall not apply to any minor who~~
20 ~~at the time of an offense was at least 13 years of age and who~~
21 ~~is charged with first degree murder committed during the course~~
22 ~~of either aggravated criminal sexual assault, criminal sexual~~
23 ~~assault, or aggravated kidnaping. However, this subsection (4)~~
24 ~~does not include a minor charged with first degree murder based~~
25 ~~exclusively upon the accountability provisions of the Criminal~~
26 ~~Code of 1961 or the Criminal Code of 2012.~~

1 ~~(b) (i) If before trial or plea an information or indictment~~
2 ~~is filed that does not charge first degree murder committed~~
3 ~~during the course of aggravated criminal sexual assault,~~
4 ~~criminal sexual assault, or aggravated kidnaping, the State's~~
5 ~~Attorney may proceed on any lesser charge or charges, but only~~
6 ~~in Juvenile Court under the provisions of this Article. The~~
7 ~~State's Attorney may proceed under the criminal laws of this~~
8 ~~State on a lesser charge if before trial the minor defendant~~
9 ~~knowingly and with advice of counsel waives, in writing, his or~~
10 ~~her right to have the matter proceed in Juvenile Court.~~

11 ~~(ii) If before trial or plea an information or indictment~~
12 ~~is filed that includes first degree murder committed during the~~
13 ~~course of aggravated criminal sexual assault, criminal sexual~~
14 ~~assault, or aggravated kidnaping, and additional charges that~~
15 ~~are not specified in paragraph (a) of this subsection, all of~~
16 ~~the charges arising out of the same incident shall be~~
17 ~~prosecuted under the criminal laws of this State.~~

18 ~~(c) (i) If after trial or plea the minor is convicted of~~
19 ~~first degree murder committed during the course of aggravated~~
20 ~~criminal sexual assault, criminal sexual assault, or~~
21 ~~aggravated kidnaping, in sentencing the minor, the court shall~~
22 ~~have available any or all dispositions prescribed for that~~
23 ~~offense under Chapter V of the Unified Code of Corrections.~~

24 ~~(ii) If the minor was not yet 15 years of age at the time of~~
25 ~~the offense, and if after trial or plea the court finds that~~
26 ~~the minor committed an offense other than first degree murder~~

1 ~~committed during the course of either aggravated criminal~~
2 ~~sexual assault, criminal sexual assault, or aggravated~~
3 ~~kidnapping, the finding shall not invalidate the verdict or the~~
4 ~~prosecution of the minor under the criminal laws of the State;~~
5 ~~however, unless the State requests a hearing for the purpose of~~
6 ~~sentencing the minor under Chapter V of the Unified Code of~~
7 ~~Corrections, the Court must proceed under Sections 5-705 and~~
8 ~~5-710 of this Article. To request a hearing, the State must~~
9 ~~file a written motion within 10 days following the entry of a~~
10 ~~finding or the return of a verdict. Reasonable notice of the~~
11 ~~motion shall be given to the minor or his or her counsel. If~~
12 ~~the motion is made by the State, the court shall conduct a~~
13 ~~hearing to determine whether the minor should be sentenced~~
14 ~~under Chapter V of the Unified Code of Corrections. In making~~
15 ~~its determination, the court shall consider among other~~
16 ~~matters: (a) whether there is evidence that the offense was~~
17 ~~committed in an aggressive and premeditated manner; (b) the age~~
18 ~~of the minor; (c) the previous delinquent history of the minor;~~
19 ~~(d) whether there are facilities particularly available to the~~
20 ~~Juvenile Court or the Department of Juvenile Justice for the~~
21 ~~treatment and rehabilitation of the minor; (e) whether the best~~
22 ~~interest of the minor and the security of the public require~~
23 ~~sentencing under Chapter V of the Unified Code of Corrections;~~
24 ~~and (f) whether the minor possessed a deadly weapon when~~
25 ~~committing the offense. The rules of evidence shall be the same~~
26 ~~as if at trial. If after the hearing the court finds that the~~

1 ~~minor should be sentenced under Chapter V of the Unified Code~~
2 ~~of Corrections, then the court shall sentence the minor~~
3 ~~accordingly having available to it any or all dispositions so~~
4 ~~prescribed.~~

5 (5) (Blank). ~~(a) The definition of delinquent minor under~~
6 ~~Section 5 120 of this Article shall not apply to any minor who~~
7 ~~is charged with a violation of subsection (a) of Section 31 6~~
8 ~~or Section 32 10 of the Criminal Code of 1961 or the Criminal~~
9 ~~Code of 2012 when the minor is subject to prosecution under the~~
10 ~~criminal laws of this State as a result of the application of~~
11 ~~the provisions of Section 5 125, or subsection (1) or (2) of~~
12 ~~this Section. These charges and all other charges arising out~~
13 ~~of the same incident shall be prosecuted under the criminal~~
14 ~~laws of this State.~~

15 ~~(b) (i) If before trial or plea an information or indictment~~
16 ~~is filed that does not charge an offense specified in paragraph~~
17 ~~(a) of this subsection (5), the State's Attorney may proceed on~~
18 ~~any lesser charge or charges, but only in Juvenile Court under~~
19 ~~the provisions of this Article. The State's Attorney may~~
20 ~~proceed under the criminal laws of this State on a lesser~~
21 ~~charge if before trial the minor defendant knowingly and with~~
22 ~~advice of counsel waives, in writing, his or her right to have~~
23 ~~the matter proceed in Juvenile Court.~~

24 ~~(ii) If before trial or plea an information or indictment~~
25 ~~is filed that includes one or more charges specified in~~
26 ~~paragraph (a) of this subsection (5) and additional charges~~

1 ~~that are not specified in that paragraph, all of the charges~~
2 ~~arising out of the same incident shall be prosecuted under the~~
3 ~~criminal laws of this State.~~

4 ~~(c)(i) If after trial or plea the minor is convicted of any~~
5 ~~offense covered by paragraph (a) of this subsection (5), then,~~
6 ~~in sentencing the minor, the court shall have available any or~~
7 ~~all dispositions prescribed for that offense under Chapter V of~~
8 ~~the Unified Code of Corrections.~~

9 ~~(ii) If after trial or plea the court finds that the minor~~
10 ~~committed an offense not covered by paragraph (a) of this~~
11 ~~subsection (5), the conviction shall not invalidate the verdict~~
12 ~~or the prosecution of the minor under the criminal laws of this~~
13 ~~State; however, unless the State requests a hearing for the~~
14 ~~purpose of sentencing the minor under Chapter V of the Unified~~
15 ~~Code of Corrections, the Court must proceed under Sections~~
16 ~~5 705 and 5 710 of this Article. To request a hearing, the~~
17 ~~State must file a written motion within 10 days following the~~
18 ~~entry of a finding or the return of a verdict. Reasonable~~
19 ~~notice of the motion shall be given to the minor or his or her~~
20 ~~counsel. If the motion is made by the State, the court shall~~
21 ~~conduct a hearing to determine if whether the minor should be~~
22 ~~sentenced under Chapter V of the Unified Code of Corrections.~~
23 ~~In making its determination, the court shall consider among~~
24 ~~other matters: (a) whether there is evidence that the offense~~
25 ~~was committed in an aggressive and premeditated manner; (b) the~~
26 ~~age of the minor; (c) the previous delinquent history of the~~

1 ~~minor; (d) whether there are facilities particularly available~~
2 ~~to the Juvenile Court or the Department of Juvenile Justice for~~
3 ~~the treatment and rehabilitation of the minor; (e) whether the~~
4 ~~security of the public requires sentencing under Chapter V of~~
5 ~~the Unified Code of Corrections; and (f) whether the minor~~
6 ~~possessed a deadly weapon when committing the offense. The~~
7 ~~rules of evidence shall be the same as if at trial. If after~~
8 ~~the hearing the court finds that the minor should be sentenced~~
9 ~~under Chapter V of the Unified Code of Corrections, then the~~
10 ~~court shall sentence the minor accordingly having available to~~
11 ~~it any or all dispositions so prescribed.~~

12 (6) (Blank). ~~The definition of delinquent minor under~~
13 ~~Section 5-120 of this Article shall not apply to any minor who,~~
14 ~~pursuant to subsection (1) or (3) or Section 5-805 or 5-810,~~
15 ~~has previously been placed under the jurisdiction of the~~
16 ~~criminal court and has been convicted of a crime under an adult~~
17 ~~criminal or penal statute. Such a minor shall be subject to~~
18 ~~prosecution under the criminal laws of this State.~~

19 (7) The procedures set out in this Article for the
20 investigation, arrest and prosecution of juvenile offenders
21 shall not apply to minors who are excluded from jurisdiction of
22 the Juvenile Court, except that minors under 18 years of age
23 shall be kept separate from confined adults.

24 (8) Nothing in this Act prohibits or limits the prosecution
25 of any minor for an offense committed on or after his or her
26 18th birthday even though he or she is at the time of the

1 offense a ward of the court.

2 (9) If an original petition for adjudication of wardship
3 alleges the commission by a minor 13 years of age or over of an
4 act that constitutes a crime under the laws of this State, the
5 minor, with the consent of his or her counsel, may, at any time
6 before commencement of the adjudicatory hearing, file with the
7 court a motion that criminal prosecution be ordered and that
8 the petition be dismissed insofar as the act or acts involved
9 in the criminal proceedings are concerned. If such a motion is
10 filed as herein provided, the court shall enter its order
11 accordingly.

12 (10) If, prior to August 12, 2005 (the effective date of
13 Public Act 94-574), a minor is charged with a violation of
14 Section 401 of the Illinois Controlled Substances Act under the
15 criminal laws of this State, other than a minor charged with a
16 Class X felony violation of the Illinois Controlled Substances
17 Act or the Methamphetamine Control and Community Protection
18 Act, any party including the minor or the court sua sponte may,
19 before trial, move for a hearing for the purpose of trying and
20 sentencing the minor as a delinquent minor. To request a
21 hearing, the party must file a motion prior to trial.
22 Reasonable notice of the motion shall be given to all parties.
23 On its own motion or upon the filing of a motion by one of the
24 parties including the minor, the court shall conduct a hearing
25 to determine whether the minor should be tried and sentenced as
26 a delinquent minor under this Article. In making its

1 determination, the court shall consider among other matters:

2 (a) The age of the minor;

3 (b) Any previous delinquent or criminal history of the
4 minor;

5 (c) Any previous abuse or neglect history of the minor;

6 (d) Any mental health or educational history of the
7 minor, or both; and

8 (e) Whether there is probable cause to support the
9 charge, whether the minor is charged through
10 accountability, and whether there is evidence the minor
11 possessed a deadly weapon or caused serious bodily harm
12 during the offense.

13 Any material that is relevant and reliable shall be
14 admissible at the hearing. In all cases, the judge shall enter
15 an order permitting prosecution under the criminal laws of
16 Illinois unless the judge makes a finding based on a
17 preponderance of the evidence that the minor would be amenable
18 to the care, treatment, and training programs available through
19 the facilities of the juvenile court based on an evaluation of
20 the factors listed in this subsection (10).

21 (11) The changes made to this Section by Public Act 98-61
22 apply to a minor who has been arrested or taken into custody on
23 or after January 1, 2014 (the effective date of Public Act
24 98-61).

25 (Source: P.A. 97-1150, eff. 1-25-13; 98-61, eff. 1-1-14;
26 98-756, eff. 7-16-14.)

1 (705 ILCS 405/5-407)

2 Sec. 5-407. Processing of juvenile in possession of a
3 firearm.

4 (a) If a law enforcement officer detains a minor pursuant
5 to Section 10-27.1A of the School Code, the officer shall
6 deliver the minor to the nearest juvenile officer, in the
7 manner prescribed by subsection (2) of Section 5-405 of this
8 Act. The juvenile officer shall deliver the minor without
9 unnecessary delay to the court or to the place designated by
10 rule or order of court for the reception of minors. In no event
11 shall the minor be eligible for any other disposition by the
12 juvenile police officer, notwithstanding the provisions of
13 subsection (3) of Section 5-405 of this Act.

14 (b) Minors ~~not excluded from this Act's jurisdiction under~~
15 ~~subsection (3) (a) of Section 5-130 of this Act~~ shall be brought
16 before a judicial officer within 40 hours, exclusive of
17 Saturdays, Sundays, and court-designated holidays, for a
18 detention hearing to determine whether he or she shall be
19 further held in custody. If the court finds that there is
20 probable cause to believe that the minor is a delinquent minor
21 by virtue of his or her violation of item (4) of subsection (a)
22 of Section 24-1 of the Criminal Code of 1961 or the Criminal
23 Code of 2012 while on school grounds, that finding shall create
24 a presumption that immediate and urgent necessity exists under
25 subdivision (2) of Section 5-501 of this Act. Once the

1 presumption of immediate and urgent necessity has been raised,
2 the burden of demonstrating the lack of immediate and urgent
3 necessity shall be on any party that is opposing detention for
4 the minor. Should the court order detention pursuant to this
5 Section, the minor shall be detained, pending the results of a
6 court-ordered psychological evaluation to determine if the
7 minor is a risk to himself, herself, or others. Upon receipt of
8 the psychological evaluation, the court shall review the
9 determination regarding the existence of urgent and immediate
10 necessity. The court shall consider the psychological
11 evaluation in conjunction with the other factors identified in
12 subdivision (2) of Section 5-501 of this Act in order to make a
13 de novo determination regarding whether it is a matter of
14 immediate and urgent necessity for the protection of the minor
15 or of the person or property of another that the minor be
16 detained or placed in a shelter care facility. In addition to
17 the pre-trial conditions found in Section 5-505 of this Act,
18 the court may order the minor to receive counseling and any
19 other services recommended by the psychological evaluation as a
20 condition for release of the minor.

21 (c) Upon making a determination that the student presents a
22 risk to himself, herself, or others, the court shall issue an
23 order restraining the student from entering the property of the
24 school if he or she has been suspended or expelled from the
25 school as a result of possessing a firearm. The order shall
26 restrain the student from entering the school and school owned

1 or leased property, including any conveyance owned, leased, or
2 contracted by the school to transport students to or from
3 school or a school-related activity. The order shall remain in
4 effect until such time as the court determines that the student
5 no longer presents a risk to himself, herself, or others.

6 (d) Psychological evaluations ordered pursuant to
7 subsection (b) of this Section and statements made by the minor
8 during the course of these evaluations, shall not be admissible
9 on the issue of delinquency during the course of any
10 adjudicatory hearing held under this Act.

11 (e) In this Section:

12 "School" means any public or private elementary or
13 secondary school.

14 "School grounds" includes the real property comprising any
15 school, any conveyance owned, leased, or contracted by a school
16 to transport students to or from school or a school-related
17 activity, or any public way within 1,000 feet of the real
18 property comprising any school.

19 (Source: P.A. 97-1150, eff. 1-25-13.)

20 (705 ILCS 405/5-805)

21 Sec. 5-805. Transfer of jurisdiction.

22 (1) (Blank). ~~Mandatory transfers.~~

23 ~~(a) If a petition alleges commission by a minor 15~~
24 ~~years of age or older of an act that constitutes a forcible~~
25 ~~felony under the laws of this State, and if a motion by the~~

1 ~~State's Attorney to prosecute the minor under the criminal~~
2 ~~laws of Illinois for the alleged forcible felony alleges~~
3 ~~that (i) the minor has previously been adjudicated~~
4 ~~delinquent or found guilty for commission of an act that~~
5 ~~constitutes a felony under the laws of this State or any~~
6 ~~other state and (ii) the act that constitutes the offense~~
7 ~~was committed in furtherance of criminal activity by an~~
8 ~~organized gang, the Juvenile Judge assigned to hear and~~
9 ~~determine those motions shall, upon determining that there~~
10 ~~is probable cause that both allegations are true, enter an~~
11 ~~order permitting prosecution under the criminal laws of~~
12 ~~Illinois.~~

13 ~~(b) If a petition alleges commission by a minor 15~~
14 ~~years of age or older of an act that constitutes a felony~~
15 ~~under the laws of this State, and if a motion by a State's~~
16 ~~Attorney to prosecute the minor under the criminal laws of~~
17 ~~Illinois for the alleged felony alleges that (i) the minor~~
18 ~~has previously been adjudicated delinquent or found guilty~~
19 ~~for commission of an act that constitutes a forcible felony~~
20 ~~under the laws of this State or any other state and (ii)~~
21 ~~the act that constitutes the offense was committed in~~
22 ~~furtherance of criminal activities by an organized gang,~~
23 ~~the Juvenile Judge assigned to hear and determine those~~
24 ~~motions shall, upon determining that there is probable~~
25 ~~cause that both allegations are true, enter an order~~
26 ~~permitting prosecution under the criminal laws of~~

1 ~~Illinois.~~

2 ~~(c) If a petition alleges commission by a minor 15~~
3 ~~years of age or older of: (i) an act that constitutes an~~
4 ~~offense enumerated in the presumptive transfer provisions~~
5 ~~of subsection (2); and (ii) the minor has previously been~~
6 ~~adjudicated delinquent or found guilty of a forcible~~
7 ~~felony, the Juvenile Judge designated to hear and determine~~
8 ~~those motions shall, upon determining that there is~~
9 ~~probable cause that both allegations are true, enter an~~
10 ~~order permitting prosecution under the criminal laws of~~
11 ~~Illinois.~~

12 ~~(d) If a petition alleges commission by a minor 15~~
13 ~~years of age or older of an act that constitutes the~~
14 ~~offense of aggravated discharge of a firearm committed in a~~
15 ~~school, on the real property comprising a school, within~~
16 ~~1,000 feet of the real property comprising a school, at a~~
17 ~~school related activity, or on, boarding, or departing from~~
18 ~~any conveyance owned, leased, or contracted by a school or~~
19 ~~school district to transport students to or from school or~~
20 ~~a school related activity, regardless of the time of day or~~
21 ~~the time of year, the juvenile judge designated to hear and~~
22 ~~determine those motions shall, upon determining that there~~
23 ~~is probable cause that the allegations are true, enter an~~
24 ~~order permitting prosecution under the criminal laws of~~
25 ~~Illinois.~~

26 ~~For purposes of this paragraph (d) of subsection (1):~~

1 ~~"School" means a public or private elementary or~~
2 ~~secondary school, community college, college, or~~
3 ~~university.~~

4 ~~"School related activity" means any sporting, social,~~
5 ~~academic, or other activity for which students' attendance~~
6 ~~or participation is sponsored, organized, or funded in~~
7 ~~whole or in part by a school or school district.~~

8 (2) (Blank). ~~Presumptive transfer.~~

9 ~~(a) If the State's Attorney files a petition, at any~~
10 ~~time prior to commencement of the minor's trial, to permit~~
11 ~~prosecution under the criminal laws and the petition~~
12 ~~alleges the commission by a minor 15 years of age or older~~
13 ~~of: (i) a Class X felony other than armed violence; (ii)~~
14 ~~aggravated discharge of a firearm; (iii) armed violence~~
15 ~~with a firearm when the predicate offense is a Class 1 or~~
16 ~~Class 2 felony and the State's Attorney's motion to~~
17 ~~transfer the case alleges that the offense committed is in~~
18 ~~furtherance of the criminal activities of an organized~~
19 ~~gang; (iv) armed violence with a firearm when the predicate~~
20 ~~offense is a violation of the Illinois Controlled~~
21 ~~Substances Act, a violation of the Cannabis Control Act, or~~
22 ~~a violation of the Methamphetamine Control and Community~~
23 ~~Protection Act; (v) armed violence when the weapon involved~~
24 ~~was a machine gun or other weapon described in subsection~~
25 ~~(a)(7) of Section 24-1 of the Criminal Code of 1961 or the~~
26 ~~Criminal Code of 2012; (vi) an act in violation of Section~~

1 ~~401 of the Illinois Controlled Substances Act which is a~~
2 ~~Class X felony, while in a school, regardless of the time~~
3 ~~of day or the time of year, or on any conveyance owned,~~
4 ~~leased, or contracted by a school to transport students to~~
5 ~~or from school or a school related activity, or on~~
6 ~~residential property owned, operated, or managed by a~~
7 ~~public housing agency or leased by a public housing agency~~
8 ~~as part of a scattered site or mixed income development; or~~
9 ~~(vii) an act in violation of Section 401 of the Illinois~~
10 ~~Controlled Substances Act and the offense is alleged to~~
11 ~~have occurred while in a school or on a public way within~~
12 ~~1,000 feet of the real property comprising any school,~~
13 ~~regardless of the time of day or the time of year when the~~
14 ~~delivery or intended delivery of any amount of the~~
15 ~~controlled substance is to a person under 17 years of age,~~
16 ~~(to qualify for a presumptive transfer under paragraph (vi)~~
17 ~~or (vii) of this clause (2) (a), the violation cannot be~~
18 ~~based upon subsection (b) of Section 407 of the Illinois~~
19 ~~Controlled Substances Act) and, if the juvenile judge~~
20 ~~assigned to hear and determine motions to transfer a case~~
21 ~~for prosecution in the criminal court determines that there~~
22 ~~is probable cause to believe that the allegations in the~~
23 ~~petition and motion are true, there is a rebuttable~~
24 ~~presumption that the minor is not a fit and proper subject~~
25 ~~to be dealt with under the Juvenile Justice Reform~~
26 ~~Provisions of 1998 (Public Act 90 590), and that, except as~~

1 ~~provided in paragraph (b), the case should be transferred~~
2 ~~to the criminal court.~~

3 ~~(b) The judge shall enter an order permitting~~
4 ~~prosecution under the criminal laws of Illinois unless the~~
5 ~~judge makes a finding based on clear and convincing~~
6 ~~evidence that the minor would be amenable to the care,~~
7 ~~treatment, and training programs available through the~~
8 ~~facilities of the juvenile court based on an evaluation of~~
9 ~~the following:~~

10 ~~(i) the age of the minor;~~

11 ~~(ii) the history of the minor, including:~~

12 ~~(A) any previous delinquent or criminal~~
13 ~~history of the minor,~~

14 ~~(B) any previous abuse or neglect history of~~
15 ~~the minor, and~~

16 ~~(C) any mental health, physical or educational~~
17 ~~history of the minor or combination of these~~
18 ~~factors;~~

19 ~~(iii) the circumstances of the offense, including:~~

20 ~~(A) the seriousness of the offense,~~

21 ~~(B) whether the minor is charged through~~
22 ~~accountability,~~

23 ~~(C) whether there is evidence the offense was~~
24 ~~committed in an aggressive and premeditated~~
25 ~~manner,~~

26 ~~(D) whether there is evidence the offense~~

1 ~~caused serious bodily harm,~~

2 ~~(E) whether there is evidence the minor~~
3 ~~possessed a deadly weapon;~~

4 ~~(iv) the advantages of treatment within the~~
5 ~~juvenile justice system including whether there are~~
6 ~~facilities or programs, or both, particularly~~
7 ~~available in the juvenile system;~~

8 ~~(v) whether the security of the public requires~~
9 ~~sentencing under Chapter V of the Unified Code of~~
10 ~~Corrections;~~

11 ~~(A) the minor's history of services, including~~
12 ~~the minor's willingness to participate~~
13 ~~meaningfully in available services;~~

14 ~~(B) whether there is a reasonable likelihood~~
15 ~~that the minor can be rehabilitated before the~~
16 ~~expiration of the juvenile court's jurisdiction;~~

17 ~~(C) the adequacy of the punishment or~~
18 ~~services.~~

19 ~~In considering these factors, the court shall give~~
20 ~~greater weight to the seriousness of the alleged offense~~
21 ~~and the minor's prior record of delinquency than to the~~
22 ~~other factors listed in this subsection.~~

23 ~~For purposes of clauses (2) (a) (vi) and (vii):~~

24 ~~"School" means a public or private elementary or secondary~~
25 ~~school, community college, college, or university.~~

26 ~~"School related activity" means any sporting, social,~~

1 ~~academic, or other activity for which students' attendance or~~
2 ~~participation is sponsored, organized, or funded in whole or in~~
3 ~~part by a school or school district.~~

4 (3) Discretionary transfer.

5 (a) If a petition alleges commission by a minor 13
6 years of age or over of an act that constitutes a crime
7 under the laws of this State and, on motion of the State's
8 Attorney to permit prosecution of the minor under the
9 criminal laws, a Juvenile Judge assigned by the Chief Judge
10 of the Circuit to hear and determine those motions, after
11 hearing but before commencement of the trial, finds that
12 there is probable cause to believe that the allegations in
13 the motion are true and that it is not in the best
14 interests of the public to proceed under this Act, the
15 court may enter an order permitting prosecution under the
16 criminal laws.

17 (b) In making its determination on the motion to permit
18 prosecution under the criminal laws, the court shall
19 consider among other matters:

20 (i) the age of the minor;

21 (ii) the history of the minor, including:

22 (A) any previous delinquent or criminal
23 history of the minor,

24 (B) any previous abuse or neglect history of
25 the minor, and

26 (C) any mental health, physical, or

1 educational history of the minor or combination of
2 these factors;

3 (iii) the circumstances of the offense, including:

4 (A) the seriousness of the offense,

5 (B) whether the minor is charged through
6 accountability,

7 (C) whether there is evidence the offense was
8 committed in an aggressive and premeditated
9 manner,

10 (D) whether there is evidence the offense
11 caused serious bodily harm,

12 (E) whether there is evidence the minor
13 possessed a deadly weapon;

14 (iv) the advantages of treatment within the
15 juvenile justice system including whether there are
16 facilities or programs, or both, particularly
17 available in the juvenile system;

18 (v) whether the security of the public requires
19 sentencing under Chapter V of the Unified Code of
20 Corrections:

21 (A) the minor's history of services, including
22 the minor's willingness to participate
23 meaningfully in available services;

24 (B) whether there is a reasonable likelihood
25 that the minor can be rehabilitated before the
26 expiration of the juvenile court's jurisdiction;

1 (C) the adequacy of the punishment or
2 services.

3 In considering these factors, the court shall give
4 greater weight to the seriousness of the alleged offense,
5 ~~and~~ the minor's prior record of delinquency, and whether
6 the minor is charged through accountability than to the
7 other factors listed in this subsection.

8 (4) The rules of evidence for this hearing shall be the
9 same as under Section 5-705 of this Act. A minor must be
10 represented in court by counsel before the hearing may be
11 commenced.

12 (5) If criminal proceedings are instituted, the petition
13 for adjudication of wardship shall be dismissed insofar as the
14 act or acts involved in the criminal proceedings. Taking of
15 evidence in a trial on petition for adjudication of wardship is
16 a bar to criminal proceedings based upon the conduct alleged in
17 the petition.

18 (6) When criminal prosecution is permitted under this
19 Section and a finding of guilt is entered, the criminal court
20 shall sentence the minor under Section 5-4.5-105 of the Unified
21 Code of Corrections.

22 (7) The changes made to this Section by this amendatory Act
23 of the 99th General Assembly apply to a minor who has been
24 taken into custody on or after the effective date of this
25 amendatory Act of the 99th General Assembly.

26 (Source: P.A. 97-1150, eff. 1-25-13.)

1 (705 ILCS 405/5-810)

2 Sec. 5-810. Extended jurisdiction juvenile prosecutions.

3 (1) (a) If the State's Attorney files a petition, at any
4 time prior to commencement of the minor's trial, to designate
5 the proceeding as an extended jurisdiction juvenile
6 prosecution and the petition alleges the commission by a minor
7 13 years of age or older of any offense which would be a felony
8 if committed by an adult, and, if the juvenile judge assigned
9 to hear and determine petitions to designate the proceeding as
10 an extended jurisdiction juvenile prosecution determines that
11 there is probable cause to believe that the allegations in the
12 petition and motion are true, there is a rebuttable presumption
13 that the proceeding shall be designated as an extended
14 jurisdiction juvenile proceeding.

15 (b) The judge shall enter an order designating the
16 proceeding as an extended jurisdiction juvenile proceeding
17 unless the judge makes a finding based on clear and convincing
18 evidence that sentencing under the Chapter V of the Unified
19 Code of Corrections would not be appropriate for the minor
20 based on an evaluation of the following factors:

21 (i) the age of the minor;

22 (ii) the history of the minor, including:

23 (A) any previous delinquent or criminal history of
24 the minor,

25 (B) any previous abuse or neglect history of the

1 minor, and

2 (C) any mental health, physical and/or educational
3 history of the minor;

4 (iii) the circumstances of the offense, including:

5 (A) the seriousness of the offense,

6 (B) whether the minor is charged through
7 accountability,

8 (C) whether there is evidence the offense was
9 committed in an aggressive and premeditated manner,

10 (D) whether there is evidence the offense caused
11 serious bodily harm,

12 (E) whether there is evidence the minor possessed a
13 deadly weapon;

14 (iv) the advantages of treatment within the juvenile
15 justice system including whether there are facilities or
16 programs, or both, particularly available in the juvenile
17 system;

18 (v) whether the security of the public requires
19 sentencing under Chapter V of the Unified Code of
20 Corrections:

21 (A) the minor's history of services, including the
22 minor's willingness to participate meaningfully in
23 available services;

24 (B) whether there is a reasonable likelihood that
25 the minor can be rehabilitated before the expiration of
26 the juvenile court's jurisdiction;

1 (C) the adequacy of the punishment or services.

2 In considering these factors, the court shall give greater
3 weight to the seriousness of the alleged offense, ~~and~~ the
4 minor's prior record of delinquency, and whether the minor is
5 charged through accountability than to other factors listed in
6 this subsection.

7 (2) Procedures for extended jurisdiction juvenile
8 prosecutions. The State's Attorney may file a written motion
9 for a proceeding to be designated as an extended juvenile
10 jurisdiction prior to commencement of trial. Notice of the
11 motion shall be in compliance with Section 5-530. When the
12 State's Attorney files a written motion that a proceeding be
13 designated an extended jurisdiction juvenile prosecution, the
14 court shall commence a hearing within 30 days of the filing of
15 the motion for designation, unless good cause is shown by the
16 prosecution or the minor as to why the hearing could not be
17 held within this time period. If the court finds good cause has
18 been demonstrated, then the hearing shall be held within 60
19 days of the filing of the motion. The hearings shall be open to
20 the public unless the judge finds that the hearing should be
21 closed for the protection of any party, victim or witness. If
22 the Juvenile Judge assigned to hear and determine a motion to
23 designate an extended jurisdiction juvenile prosecution
24 determines that there is probable cause to believe that the
25 allegations in the petition and motion are true the court shall
26 grant the motion for designation. Information used by the court

1 in its findings or stated in or offered in connection with this
2 Section may be by way of proffer based on reliable information
3 offered by the State or the minor. All evidence shall be
4 admissible if it is relevant and reliable regardless of whether
5 it would be admissible under the rules of evidence.

6 (3) Trial. A minor who is subject of an extended
7 jurisdiction juvenile prosecution has the right to trial by
8 jury. Any trial under this Section shall be open to the public.

9 (4) Sentencing. If an extended jurisdiction juvenile
10 prosecution under subsection (1) results in a guilty plea, a
11 verdict of guilty, or a finding of guilt, the court shall
12 impose the following:

13 (i) one or more juvenile sentences under Section 5-710;

14 and

15 (ii) an adult criminal sentence in accordance with the
16 provisions of Section 5-4.5-105 of the Unified Code of
17 Corrections Chapter V of the Unified Code of Corrections,
18 the execution of which shall be stayed on the condition
19 that the offender not violate the provisions of the
20 juvenile sentence.

21 Any sentencing hearing under this Section shall be open to the
22 public.

23 (5) If, after an extended jurisdiction juvenile
24 prosecution trial, a minor is convicted of a lesser-included
25 offense or of an offense that the State's Attorney did not
26 designate as an extended jurisdiction juvenile prosecution,

1 the State's Attorney may file a written motion, within 10 days
2 of the finding of guilt, that the minor be sentenced as an
3 extended jurisdiction juvenile prosecution offender. The court
4 shall rule on this motion using the factors found in paragraph
5 (1)(b) of Section 5-805. If the court denies the State's
6 Attorney's motion for sentencing under the extended
7 jurisdiction juvenile prosecution provision, the court shall
8 proceed to sentence the minor under Section 5-710.

9 (6) When it appears that a minor convicted in an extended
10 jurisdiction juvenile prosecution under subsection (1) has
11 violated the conditions of his or her sentence, or is alleged
12 to have committed a new offense upon the filing of a petition
13 to revoke the stay, the court may, without notice, issue a
14 warrant for the arrest of the minor. After a hearing, if the
15 court finds by a preponderance of the evidence that the minor
16 committed a new offense, the court shall order execution of the
17 previously imposed adult criminal sentence. After a hearing, if
18 the court finds by a preponderance of the evidence that the
19 minor committed a violation of his or her sentence other than
20 by a new offense, the court may order execution of the
21 previously imposed adult criminal sentence or may continue him
22 or her on the existing juvenile sentence with or without
23 modifying or enlarging the conditions. Upon revocation of the
24 stay of the adult criminal sentence and imposition of that
25 sentence, the minor's extended jurisdiction juvenile status
26 shall be terminated. The on-going jurisdiction over the minor's

1 case shall be assumed by the adult criminal court and juvenile
2 court jurisdiction shall be terminated and a report of the
3 imposition of the adult sentence shall be sent to the
4 Department of State Police.

5 (7) Upon successful completion of the juvenile sentence the
6 court shall vacate the adult criminal sentence.

7 (8) Nothing in this Section precludes the State from filing
8 a motion for transfer under Section 5-805.

9 (Source: P.A. 94-574, eff. 8-12-05; 95-331, eff. 8-21-07.)

10 (705 ILCS 405/5-822 new)

11 Sec. 5-822. Data collection. On the effective date of this
12 amendatory Act of the 99th General Assembly:

13 (1) The Clerk of the Circuit Court of every county in
14 this State, shall track the filing, processing, and
15 disposition of all cases:

16 (a) initiated in criminal court under Section
17 5-130 of this Act;

18 (b) in which a motion to transfer was filed by the
19 State under Section 5-805 of this Act;

20 (c) in which a motion for extended jurisdiction was
21 filed by the State under Section 5-810 of this Act;

22 (d) in which a designation is sought of a Habitual
23 Juvenile Offender under Section 5-815 of this Act; and

24 (e) in which a designation is sought of a Violent
25 Juvenile Offender under Section 5-820 of this Act.

1 (2) For each category of case listed in subsection (1),
2 the clerk shall collect the following:

3 (a) age of the defendant at the time of offense;

4 (b) race and ethnicity of the defendant;

5 (c) gender of the defendant;

6 (d) the offense or offenses charged;

7 (e) date filed and the date of final disposition;

8 (f) the final disposition;

9 (g) for those cases resulting in a finding or plea
10 of guilty:

11 (i) charge or charges for which they are
12 convicted

13 (ii) sentence for each charge;

14 (h) for cases under paragraph (c) of subsection
15 (1), the clerk shall report if the adult sentence is
16 applied due to non-compliance with the juvenile
17 sentence.

18 (3) On January 15 and June 15 of each year beginning 6
19 months after the effective date of this amendatory Act of
20 the 99th General Assembly, the Clerk of each county shall
21 submit a report outlining all of the information from
22 subsection (2) to the General Assembly and the county board
23 of the clerk's respective county.

24 (4) No later than 2 months after the effective date of
25 this amendatory Act of the 99th General Assembly, the
26 standards, confidentiality protocols, format, and data

1 depository for the semi-annual reports described in this
2 Section shall be identified by the State Advisory Group on
3 Juvenile Justice and Delinquency Prevention and
4 distributed to the General Assembly, county boards, and
5 county clerks' offices.

6 (705 ILCS 405/5-821 rep.)

7 Section 10. The Juvenile Court Act of 1987 is amended by
8 repealing Section 5-821.

9 Section 15. The Unified Code of Corrections is amended by
10 adding Section 5-4.5-105 as follows:

11 (730 ILCS 5/5-4.5-105 new)

12 Sec. 5-4.5-105. Sentencing of individuals under the age of
13 18 at the time of the commission of an offense.

14 (a) On or after the effective date of this amendatory Act
15 of the 99th General Assembly, when a person commits an offense
16 and the person is under 18 years of age at the time of the
17 commission of the offense, the court, at the sentencing hearing
18 conducted under Section 5-4-1, shall consider the following
19 additional factors in mitigation in determining the
20 appropriate sentence:

21 (1) the person's age, impetuosity, and level of
22 maturity at the time of the offense, including the ability
23 to consider risks and consequences of behavior, and the

1 presence of cognitive or developmental disability, or
2 both, if any;

3 (2) whether the person was subjected to outside
4 pressure, including peer pressure, familial pressure, or
5 negative influences;

6 (3) the person's family, home environment, educational
7 and social background, including any history of parental
8 neglect, physical abuse, or other childhood trauma;

9 (4) the person's potential for rehabilitation;

10 (5) the circumstances of the offense;

11 (6) the person's degree of participation and specific
12 role in the offense, including the level of planning by the
13 defendant before the offense;

14 (7) whether the person was able to meaningfully
15 participate in his or her defense;

16 (8) the person's prior juvenile or criminal history;
17 and

18 (9) any other information the court finds relevant and
19 reliable, including an expression of remorse, if
20 appropriate. However, if the person, on advice of counsel
21 chooses not to make a statement, the court shall not
22 consider a lack of an expression of remorse as an
23 aggravating factor.

24 (b) Except as provided in subsection (c), the court may
25 sentence the defendant to any disposition authorized for the
26 class of the offense of which he or she was found guilty as

1 described in Article 4.5 of this Code, and may, in its
2 discretion, decline to impose any otherwise applicable
3 sentencing enhancement based upon firearm possession,
4 possession with personal discharge, or possession with
5 personal discharge that proximately causes great bodily harm,
6 permanent disability, permanent disfigurement or death to
7 another person.

8 (c) Notwithstanding any other provision of law, if the
9 defendant is convicted of first degree murder and would
10 otherwise be subject to sentencing under clause (iii), (iv),
11 (v), or (vii) of subsection (c) of Section 5-8-1 of this Code
12 based on the category of persons identified therein, the court
13 shall impose a sentence of not less than 40 years of
14 imprisonment. In addition, the court may, in its discretion,
15 decline to impose the sentencing enhancements based upon the
16 possession or use of a firearm during the commission of the
17 offense included in subsection (d) of Section 5-8-1."